

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/650,635 08/30/00 DODD

J 66044/72538-

025269 QM02/1030
DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

EXAMINER

MORRIS, L

ART UNIT

PAPER NUMBER

3752

DATE MAILED:

10/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/650,635

Applicant(s)

DODD, JOSEPH K.

Examiner

Lesley D Morris

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on August 30, 2000; October 24, 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9, 11-26, 29, 30, 33-36 and 39-42 is/are rejected.
- 7) ☒ Claim(s) 5, 10, 27, 28, 31, 32, 37 and 38 are is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

DETAILED ACTION

1. The IDS filed October 24, 2000, and the changes of address filed October 3, 2001 are hereby acknowledged and have been placed of record. Please find attached a signed and initialed PTO-1449.

Specification

2. The disclosure is objected to because of the following informalities: On page 13, line 16, reference number 39 is associated with inlet passage; however, it had previously been associated with the vent. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 8, 9, 15-19, 25, 33, and 39-41 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by M^cRoskey et al. 4,901,923.

5. Claims 1-3, 6, 8, 9, 15-18, 25, and 39-42 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by George et al. 3,186,643.

6. Claims 1-3, 8, 9, 20, 25, and 29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Beiswenger et al. 4,369,921.

Art Unit: 3752

7. Claims 25, 26, 29, and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gunzel Jr. et al. 4,527,740.

8. Claims 22 and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hultgren et al. 3,255,972.

9. Claims 1, 4, 6, 8, 9, 18, 19, and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chow et al. 4,750,674.

10. Claims 1-3, 6-9, 18, 20, 21, 25, and 33-36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Englhard et al. 5,100,059.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 11, 13, 14, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over M^cRoskey et al. '923 in view of Hultgren et al. '972. The spray device of M^cRoskey et al. '923 does not have an attached handle with a gripper area and it does not have a roughened surface on nozzle 19. The sprayer of Hultgren et al. '972 includes upright handle 21 with a gripper section. The inclusion of the handle will make holding the device easier on the user. Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art to have modified the sprayer of M^cRoskey et al. '923 to have included a handle with a grip

Art Unit: 3752

area, as shown by Hultgren et al. '972 so as to make it easier for a user to hold the device while in use. As for the roughened surface, it is well known and common for surfaces to not be smooth in order to encourage break-up of fluid flow. Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art to have modified the sprayer of M^cRoskey et al. '923 to have included a roughened surface on the nozzle 19 to help encourage break-up of the fluid flow.

Allowable Subject Matter

13. Claims 5, 10, 27, 28, 31, 32, 37, and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims are found to be allowable because the prior art fails to teach or fairly suggest 1) there be a passageway on the exterior of the valve to connect the inlet passage for the carrier fluid and the discharge passage, 2) there be a pair of sloped walls on the nozzle for selectively deflecting the flow in selected directions, and 3) the sealing rings and closing means being of co-injected material interconnected by channels provided by the co-injection formation.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lesley D Morris whose telephone number is (703) 308 0629. The examiner can normally be reached on Monday-Thursday (7:30-4:30), alternate Fridays off.

Art Unit: 3752

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (703) 308 1272. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872 9302 for regular communications and (703) 872 9303 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0861.



Lesley D Morris
Primary Examiner
Art Unit 3752

LDM
October 29, 2001

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a)

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.